IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 16564 of 2004

Between:

M.L.R. Motors Private Limited, rep. by its Director, D. Balakrishna S/o. Late D. Nagaiah, at 41/1A, IDA. Balanagar, Hyderabad.

..... PETITIONER

AND

1 The Govt of A.P., rep. by its Secretary, Industries and Commerce Dept.,

Secretariat, Hyd.
2 The Commercial Tax Offiacer, Ferozguda Circle, Nampally, Hyd.

3. The Commissioner of Industries, Government of Andhra Pradesh, Chirag Ali Lane, Abids, Hyderabad

(R3 is impleaded as per Court Order dated 22-09-2004 in W.P.M.P.No.21311 of 2004)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of Writ of Certiorari quashing the order in Lr.No.10/1/2000/2103/2103/ID, Dt. 15.7.2003.

Counsel for the Petitioner: MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents.: GP FOR COMMERCIAL TAX

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P.NO. 16564 OF 2004

ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Heard learned counsel for the parties. An order dated 15.7.2003 issued by the Commissioner of Industries has been challenged in this writ petition. The main ground on which the order is challenged is that though a show cause notice had been issued before passing of this order and the petitioner had filed his reply and was available with the Commissioner of Industries, he did not take his reply into consideration while passing the impugned order. In the last para of the order, the Commissioner of Industries wrote,

> "In view of the above, you are hereby informed that the Eligibility Certificate issued to your unit under the provisions of G.O.Ms.No. 588, Indss. & Com. (IP) Department dated 20.11.2000 vide reference 1st cited is hereby cancelled, since there is no reply has been received from you as against the show cause notice."

But the petitioner has emphatically stated in his affidavit that before the impugned order was passed on 15.7.2003, he had already submitted his reply to the show cause notice on 18.3.2003 and it had been received by the Commissioner of Industries. The petitioner has also furnished a copy of acknowledgement due. In view of these assertions, we had asked the learned counsel for the respondents to get instructions as to whether the petitioner's reply had been received by the Commissioner of Industries before he passed the impugned order. The learned counsel has fairly conceded that the reply had been received in the District Industries Office, which had not been transmitted to the Commissioner of Industries. It appears that because of lack of communication the Commissioner of Industries could not take into consideration the reply given by the petitioner before passing the impugned order. The petitioner had filed his reply to the show cause well within time.

For these reasons, we allow the writ petition and set aside the impugned order. It will be open for the Commissioner of Industries to pass fresh order after considering the reply to the show cause notice filed by the petitioner. The distraint order shall remain stayed till the Commissioner of Industries decides the matter. No costs.

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BN J.

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SAR J.

Dt. 22.9.2004

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ASST. REGISTRAR

To

1 The Govt of A.P., rep. by its Secretary, Industries and Commerce Dept.,

Secretariat, Hyd.
2 The Commercial Tax Offiacer, Ferozguda Circle, Nampally, Hyd.

3. 2 CCs to G.P. for Commercial Tax, High Court Buildings, Hyderabad (out)

4.2 CD copies